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## Fwd: Voyager Digital Plea - Please help the small retail investors decimated by this hold of funds by Voyager - Case 22-10943(MEW)

1 message

Dlany Conny <dlany@fragoutmarketing.com>  
To: "pickleballfoodpubstaff@gmail.com" <pickleballfoodpubstaff@gmail.com>

Wed, Jul 27, 2022 at 4:18 PM

----- Forwarded message -----

From: **Dlany Conny** <dlany@fragoutmarketing.com>  
Date: Sat, Jul 23, 2022, 5:39 PM  
Subject: Voyager Digital Plea - Please help the small retail investors decimated by this hold of funds by Voyager - Case 22-10943(MEW)  
To: <wiles.chambers@nysb.uscourts.gov>

To The Honorable Judge Wiles,

I write as a customer of Voyager, a technologist, and a believer in the mission and potential of blockchain technologies.

You will be making a number of landmark decisions for this case; I write from the perspective of a typical Voyager customer, in the hopes of our voices being heard from the start through the close of this process.

I've dabbled in crypto for more than five years, but it was only about two years ago when I became fundamentally sold on the value proposition of bitcoin and ethereum and decided to invest a majority of my life's savings into both.

I made these purchases on exchanges other than Voyager. However, when I came across Voyager's online marketing and YouTube video promotions, and CEO Steven Ehrlich's interviews, promising yield in exchange for loaning out my crypto to professional, seasoned investors, I opened up an account and gradually transferred nearly all of my assets to Voyager. At the time the figure was about \$11,000. I did so with the same mindset as I had many years ago when putting money into a savings account to accrue interest, and as a reaction to my fears about inflation spurred by the Fed's money printing.

I didn't do so without first conducting due diligence. I considered the possibilities of holding all of my crypto on a hardware wallet (similar to having a digital vault at your home), as well as competing companies in the space and ultimately chose Voyager for the following reasons:

1. The company was publicly listed, implying responsible stewardship of my assets.
2. CEO, Steven Ehrlich, positioned as an industry veteran, working in the capital markets for more than 25 years and achieving the role of CEO of E\*Trade Financial's Professional Trading division (I had been a customer of E\*Trade before, which contributed to my trust).
3. Voyager claimed to have full FDIC protection on USD balances. So, I transferred more than half of my cash and income to Voyager, to hedge against inflation. In the case of an issue, I could (and did) convert that interest bearing USDC into "protected" US dollars. It seems that many customers didn't know the difference between the distinct protection afforded to their USD vs their USDC.
4. Ehrlich and by extension, the company, continually reassured customers in interviews that *\*their funds\** were safe, all the way up until days before bankruptcy (Note: I had been strongly considering withdrawing my crypto in early June due to market conditions, but was reassured not to by Voyager's press release on June 14 that read, "The company is well capitalized and in a good position to weather this cycle and protect *customer assets*," [emphasis added] combined with their announcement of the Alameda loan, which covered nearly the entire gap from the 3AC loan). To the point about the Alameda loan, it, combined with our assets on the platform that have *not* been lost and the \$10k per day withdrawal limit, seem to have been more than adequate to cover the company until the panic subsided – even in consideration of the \$75M per month limit that Alameda put on the debt facility.

The Chapter 11 filing was a shock and presents more questions than answers to us customers. Note that the User Agreement, section 5(C) reads: “Customer Cryptocurrency. Customer authorizes and instructs Voyager to hold Customer’s Cryptocurrency (whether purchased on the Platform or deposited by Customer into the Account pursuant to the Cryptocurrency Deposit mechanics outlined above) on its behalf.” (Emphasis added). Although this section goes on to note that in the case of insolvency, much of the case law is not yet established for cryptocurrencies, who in their right mind would ever consider that the fair legal treatment of consumers’ assets would be outright forfeiture *to the company*, because of the company’s mistakes? We’re already severely disadvantaged by trusting in Voyager; why should we be even more so, to the offending party and their management’s benefit? Such a structure would incentivize companies like Voyager to file for Chapter 11 during any downturn or “crypto winter,” delay payouts until the market recovers, then issue “fair market value” claims on the assets at time of insolvency, when the underlying crypto assets are worth far more.

How Voyager differed from these assurances and the resulting havoc it has caused to so many people’s lives during these difficult financial times will now unfold in your legal forum.

My story is not unique. It is, unfortunately, the story of practically all Voyager customers – most of whom are likely less financially literate than I am, but all trusting in the company’s reassurances; their professional competency to manage risk; their positioning as an entity that is a custodian of our assets, *not owner*; and their genuine intention and pragmatic legal steps to protect its customers and their assets.

At the moment, a majority of my lifelong assets, accumulated through some ups and more downs as an entrepreneur, are locked on Voyager with no telling if, when and how much of them I will gain access to again. My savings to buy a home, build and support a family, and invest in my future, are all locked away in that account. Yet, I must consider myself fortunate: many other Voyager customers have expressed in online forums their contemplation of suicide, having no money to make rent or pay for their daughter’s college education.... As anxious and sick to my stomach as the thought of what has happened makes me, I cope by reminding myself, “it could be much worse.”

I’m sure you’re aware of all of this, and it is a common outcome from bankruptcy proceedings you’ve overseen. So, why this letter?

I hope to make clear the position of nearly all Voyager customers and crypto holders, as expressed by thousands of us via online forums like Twitter, Reddit and others.

1. **\*\*Who owns the hard, digital assets? The scheme to provide only “fair market value.”\*\*** First and foremost, we want our crypto assets back, intact. Not the “present value” at the time of bankruptcy filing, but the *actual coins* in as close to the same quantity we have on the platform as financially possible – and not a penny more! The seasoned professionals at Voyager know that we are currently in a “crypto winter” and close to the bottom of the market. This cycle repeats itself approximately once every four years, based on what’s known as the bitcoin “halving,” and with the advent of the Terra Luna collapse, 3AC insolvency, etc., crypto assets are mispriced from a long-term perspective. Firmly and reasonably expecting that crypto asset prices will go up from here, and by a dramatic margin, it’s in Voyager’s best interest to only issue us customers “claims” on today’s *value* of those assets, rather than the assets themselves. As earlier expressed, we bought these coins with our hard earned money, fully believing that Voyager was only loaning *our* assets out, and has absolutely no claim of ownership over them. If Voyager gets away with this, crypto can easily be worth 2-5x what it currently is by the time we’re paid back our fraction in the form of “fair market value” claims, which would be tantamount to robbery from the common retail investor; you and me. Had Voyager customers been made aware that the company took the position that they owned our assets, the news would have spread like wildfire across the crypto community and Voyager would have been a failed venture from the outset. I would have not even

for a moment considered parking my assets with them in such a scenario. Retail investors who invested in crypto, whether on Voyager or not, did so because we believed in the potential of crypto to be life changing, transformative and empowering for us and future generations. We are long-term bullish. Voyager, being a company in the space shares that outlook. The question is, who deserves those assets: retail investors who took the risk by investing their money into purchasing them, or Voyager? Does the naive consumer, believing in the clever stories and well-thought-out, multi-million-dollar professional marketing and legal structures of the “safe” exchange, Voyager, sacrifice those coins to them simply because *they* made reckless decisions issuing enormous, uncollateralized loans? Nobody but the founders and management of Voyager – who largely divested in the past year – cares to save a legal entity without a heart, soul or life to support, when compared to all of us individuals and families whose lives are directly impacted by the current financial freezing and likely loss of a substantial portion of our assets.

2. **\*\*Ownership of Voyager and/or Voyager tokens.\*\*** We don't care to have ownership of Voyager's equity, nor their “token.” Most Voyager customers did not own either, because it wasn't the exchange that we believed would usher in the future, it was the crypto projects, like bitcoin and Ethereum. Forcing ownership of a company that caused harm upon us, with an overinflated investment banking analyst's DCF analysis or comps-based valuation, is not a desired path forward for us. We will all be running for the exit with those securities from the start and the value will plummet. The only exception to this might be if a very respected, large player were to acquire Voyager, financially back it, return our crypto assets intact, and provide adequate confidence that there would not be a repeat of what we're currently going through. In this case, customers will be far more likely to keep assets on the platform. But even in this case, Voyager customers would very much prefer that entity to wholly own Voyager, in exchange for us customers being made whole on our crypto and USD assets, as opposed to co-owning or receiving Voyager tokens.

Putting it another way, the ideal outcome for all Voyager customers is to get all, or as much as possible of their crypto assets and USD back – absolutely not “the fair market value at the time of bankruptcy.” This may require a buyout or financial injection from an established third party. If that happens to bring along with it renewed optimism, then equity may be appropriate to make up a gap *if* it still exists – but it is a far inferior outcome than getting as much of our crypto and USD back, even if it means Voyager ceasing to exist.

Thank you for your time and consideration. The thousands of us Voyager customers hope that you will carefully take our lives and livelihoods into consideration while presiding over this case.

Warm regards,

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Thank You